

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of	PIRIM	Confirmation No.	9812
Patent No.	7,043,465 B2	Group:	2121
Issue Date:	May 9, 2006	Examiner:	HOLMES, MICHAEL B
Application No.	09/876,929	Docket No.	8042-7
Filing Date:	June 8, 2001		
For:	METHOD AND DEVICE FOR PERCEPTION OF AN OBJECT BY ITS SHAPE, ITS SIZE AND/OR ITS ORIENTATION		

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**PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED  
FOREIGN PRIORITY CLAIM UNDER 37 CFR § 1.55(c)**

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ATTN: Petitions Office  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir or Madam:

Patent Owner hereby petitions under 37 CFR § 1.55(c) to request acceptance of an unintentionally delayed foreign priority claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application.

**PERTINENT FACTS**

1. U.S. Patent Application No. 09/792,436 (entitled "Method and Device for Automatic Visual Perception") was filed on February 23, 2001 claiming priority to French Patent Application No. FR 00 02355, filed in France on February 24, 2000. U.S. Patent Application No. 09/792,436 issued as U.S. Patent No. 6,959,293.

- a. The Supplemental Notice of Allowability mailed on December 30, 2004 for U.S. Patent Application No. 09/792,436 acknowledged applicant's claim of foreign priority and indicated that certified copies of all priority documents had been received.
  - b. The priority claim to FR 00 02355 is referred to under the "foreign priority" tab on PAIR for U.S. Patent Application No. 09/792,436, now U.S. Patent No. 6,959,293.
  - c. The priority claim to FR 00 02355 was omitted from the first page of the issued patent for U.S. Patent No. 6,959,293.
  - d. A Request for Certificate of Correction of U.S. Patent No. 6,959,293 has been filed to correct the priority claim for U.S. Patent No. 6,959,293.
2. U.S. Patent Application No. 09/876,929, the application for the above-referenced patent, was filed on June 8, 2001 claiming priority to U.S. Patent Application No. 09/792,436, filed on February 23, 2001, now U.S. Patent No. 6,959,293, as a continuation-in-part and French Patent Application No. 01 02539, filed on February 23, 2001. U.S. Patent Application No. 09/876,929 issued as the above-referenced patent, U.S. Patent No. 7,043,465.
  3. In U.S. Patent No. 7,043,465, a priority claim to French Patent Application No. 00 02355 was unintentionally omitted.
  4. Patent owner has acted diligently and without delay from the time the error was discovered to the filing of the present Petition.
  5. A Request for Certificate of Correction of U.S. Patent No. 7,043,465 has been filed concurrently, requesting to perfect the unintentionally delayed claim for foreign priority under 35 U.S.C. § 255, 37 CFR § 1.323 and MPEP § 201.16 because the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR 1.55(a) were met.

## **DISCUSSION**

### **I. Authority For Unintentional Delay In Claiming the Benefit of A Prior-Filed Foreign Application Under 35 USC § 119(a)-(d) In The Above-Referenced Patent**

37 CFR § 1.55(c) provides that:

(c) Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:

- (1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
- (2) The surcharge set forth in § 1.17(t); and
- (3) A statement that the entire delay between the date the claim was due under paragraph (a)(1) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

MPEP 201.16 provides that:

In summary, a certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR 1.55(a) are met. Furthermore, if the continuing application (other than a design application), which issued as a patent, was filed on or after November 29, 2000 \*\*, in addition to the filing of a certificate of correction request, patentee must also file a petition for an unintentionally delayed foreign priority claim under 37 CFR 1.55(c).

### **II. Claim Under 35 U.S.C. § 119(a)-(d) and Surcharge Set Forth In 37 CFR § 1.17**

Patent Owner respectfully requests acceptance of an unintentionally delayed foreign priority claim under 35 U.S.C. § 119(a)-(d) to French Patent Application No. FR 00 02355, filed in France on February 24, 2000. In accordance with MPEP § 201.16, the requested foreign

priority claim was perfected in the parent application, including submission of a certified copy of the priority document. *See* Facts 1 and 2.

Credit card payment in the amount of \$1410.00 accompanies this Request. Please charge any necessary fee or credit any overpayment pursuant to 37 CFR § 1.17 to Deposit Account No. 14-1437.

### **III. Statement Regarding Unintentional Delay**

The entire delay between the date the claim was due under paragraph (a)(1) of 37 CFR §1.55 and the date the claim was filed was unintentional.

### **CONCLUSION**

The grant of the present Petition to accept the unintentionally delayed priority claim under 35 USC § 119(a)-(d) is respectfully requested. In the event that the Office requires additional information regarding this Petition or the patent otherwise, please contact the undersigned representative Karen Kline (direct line: 561-847-7814).

Respectfully submitted,

**NOVAK DRUCE + QUIGG LLP**

Date: August 19, 2010

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